

**3525.2325 EDUCATION PROGRAMS FOR K-12 PUPILS AND REGULAR STUDENTS PLACED IN CENTERS FOR CARE AND TREATMENT.**

Subpart 1. **When education is required.** The district in which the facility is located must provide regular education, special education, or both, to a pupil or regular education student in kindergarten through grade 12 placed in a facility, or in the student's home for care and treatment. Education services must be provided to a pupil or regular education student who is:

A. prevented from attending the pupil's or student's normal school site for 15 consecutive school days; or

B. predicted to be absent from the normal school site for 15 consecutive school days according to the placing authority, such as a medical doctor, psychologist, psychiatrist, judge, or other court-appointed authority; or

C. health-impaired and in need of special education and predicted by the team to be absent from the normal school site for 15 intermittent school days.

A pupil or regular education student shall begin receiving instruction as soon as practicable under treatment conditions.

Special education services must be provided as required by a pupil's IEP, and to the extent that treatment considerations allow the pupil to participate. Number of school days for determining due process procedures shall begin upon enrollment in an education program. Placement for care and treatment does not of itself require special education placement.

D. For those education programs run by the Department of Corrections, the district shall be the Department of Corrections for the purpose of this part. The district is responsible for ensuring that a cooperative agreement is reached with the care and treatment center facility which addresses all the requirements of Department of Human Services Rules, parts 9545.0900 to 9545.1090 and 9545.1400 to 9545.1480 which pertain to the provision of education services for students placed in centers for care and treatment. Provision of special education services requires implementation of all due process safeguards defined in state and federal law. Some procedures are modified to assure the pupil's access to education.

For purposes of this part, pupils and regular education students placed in the following facilities by someone other than the district are considered to be placed for care and treatment:

- (1) chemical dependency and other substance abuse treatment centers;
- (2) shelter care facilities;
- (3) home, due to accident or illness;

- (4) hospitals;
- (5) day treatment centers;
- (6) correctional facilities;
- (7) residential treatment centers; and
- (8) mental health programs.

Subp. 2. **Education programs for students and pupils and regular education students placed in short-term programs for care and treatment.** A placement for care and treatment is a short-term placement if the anticipated duration of the placement is less than 31 school days. The school district must begin to provide instruction to the pupil or regular education student immediately after the pupil or student is enrolled in the education program. If the student is enrolled in the educational program without an educational record or IEP, the district's procedures must include immediate phone contact with the home school to see if the regular education student has been identified as disabled.

A. If a regular education student has been identified as disabled and has a current IEP:

Initial due process procedures for previously identified pupils placed for care and treatment in a short-term facility may be accomplished by telephone; however, the required written documentation, including notices, consent forms, and IEP's, must follow immediately. If the pupil has a current IEP in the home school, the home school must give the providing agency an oral review of the IEP goals and objectives and services provided. The providing agency must contact the parents and together an agreement must be reached about continuing or modifying special education services in accordance with the current IEP goals and objectives. If agreement is not reached over the phone, the providing district shall hold a team meeting as soon as possible. At least the following people shall receive written notice to attend: the person or agency placing the pupil, the resident district, the appropriate teachers and related services staff from the providing district, the parents, and, when appropriate, the pupil. This meeting may be held in conjunction with a meeting called by a placing agency. A copy of the documentation, including the modified IEP, must be provided to the parents with a copy of their rights, including a response form.

B. If a regular education student has not been identified as disabled or if the providing district cannot determine if a student has been identified as disabled:

(1) Regular education instruction must begin immediately upon enrollment in the education program.

(2) A screening must be conducted by education staff to determine the student's academic, social, and behavioral needs.

(3) Based on the documented results of the screening, a decision must be made about the need for prereferral interventions or an appropriate special education evaluation according to parts 3525.2550 and 3525.2710. It is not required that an appropriate evaluation be started unless it appears that it can be completed.

(4) During the student's placement, regular education instruction must be provided.

Subp. 3. **Education programs for pupils and regular education students placed in long-term programs for care and treatment.** A placement made for care and treatment is long term if it is anticipated to extend beyond 30 school days. The pupil or regular education student must receive educational services immediately upon enrollment in the education program:

A. If the student has been identified as disabled and has a current IEP.

If the education staff of the providing district decides that the pupil's current IEP can be implemented while the pupil is placed for care and treatment, the education staff must contact the parents to secure an agreement to continue to provide special education services according to the IEP. If the parents do not agree with the providing district's proposal, the district shall hold a team meeting as soon as possible.

If the education staff needs additional evaluation information or the pupil's current IEP cannot be fully implemented while the pupil is placed for care and treatment, the education staff must:

(1) contact the parents to secure an agreement to provide special education on an interim basis while an evaluation is completed; or

(2) call a team meeting to revise the current IEP or develop an interim IEP while the pupil is undergoing additional evaluation to determine an appropriate program.

B. If the student has not been identified as disabled or if the providing district cannot determine if the student has been identified as disabled, the student entering a residential facility for a long-term placement must be screened to determine if there is a need for an appropriate educational evaluation. An evaluation must begin with a review of screening and other information such as the parent or student interview, available educational and social history, and the purpose of the treatment placement. The evaluation must be conducted according to parts 3525.2550 and 3525.2710.

If the student meets entrance criteria for special education, an IEP must be developed. Special education services must be provided by appropriately licensed staff in accordance with the IEP. If the student was not evaluated or was evaluated and does not meet entrance criteria for special education, regular education services must be provided in accordance with the student's education plan.

Subp. 4. **When a student or pupil leaves the facility.** If a student or pupil has received an evaluation or special education services for 15 or more school days, the providing district must prepare an exit report summarizing the regular education or special education evaluation or service information and must send the report to the home school, the receiving facility, the parent, and any appropriate social service agency. For a pupil, this report must include a summary of current levels of performance, progress, and any modifications made in the pupil's IEP or services. Record transfers between anyone other than educational agencies and the parent require prior approval of the parents in accordance with data privacy laws.

Subp. 5. **Minimum service required.** The team must predict how long the pupil or regular education student must be placed for care and treatment. If the prediction is for a restricted period of more than 170 school days or its equivalent, exclusive of summer school, the district shall make available:

A. the instruction necessary for the student or pupil to make progress in the appropriate grade level for the successful completion of the courses, programs, or classes the student or pupil would have been enrolled in if the student or pupil were not placed for care and treatment;

B. preferably a normal school day in accordance with the pupil's IEP, as defined in part 3525.2810, subpart 1, item A;

C. an average of at least two hours a day of one-to-one instruction; or

D. a minimum of individualized instruction for one-half of the normal school day if it is justified in the pupil's IEP or student's education plan that none of these options are appropriate.

If the predicted restricted period is fewer than 171 school days, exclusive of summer school, the district shall make available at a minimum either small group instruction for one-half of the normal school day or at least an average of one hour a day of one-to-one instruction.

Provision of special educational services for pupils outside of the providing school district's regular calendar is optional unless the pupil has an extended year IEP.

Subp. 6. **Placement, services, and due process requirements for pupils.**

A. The IEP developed by the team must include the provisions of parts 3525.2900 and 3525.2810, the location of the special education services, the projected duration of the special education services, and provisions for coordinating the care and treatment and the special education services.

B. The nature of and the restrictiveness of some long-term facilities require the pupils to remain on site. When a pupil's treatment and educational needs allow, integration

shall be provided in a regular educational setting. The determination of the amount and site of integrated services must be a joint decision between parents, the treatment and education staff, and when possible final educational placement decisions must be made by the IEP team of the providing educational agency. If the IEP team concludes a pupil can benefit from an average of more than three hours of educational services, it must, in conjunction with care and treatment center staff, consider the feasibility and appropriateness of an education placement at a regular school site.

C. If a pupil is placed in a residential facility outside the resident district, the providing district must provide appropriate special education services. The placement of the pupil in a residential center for care and treatment outside the resident district is not an initial placement in the receiving district. The providing district shall make every effort to implement the resident district's IEP, making the modifications necessary due to the restrictive care and treatment setting and based on agreements reached with the parent. The providing district shall comply with the due process procedures of parts 3525.2550 to 3525.4770. Districts shall develop alternative procedures for implementing the legal requirements for observing the student in a regular classroom and document previous interventions that have been tried before the student placed for care and treatment is identified as having a specific learning disability or an emotional or behavioral disorder. These alternative procedures must be included in the district's entrance criteria. The district and facility shall cooperatively develop procedures to be used in emergency situations that comply with the Pupil Fair Dismissal Act according to Minnesota Statutes, sections 121A.40 to 121A.56, and the district's discipline policy.

**Subp. 7. Student's and pupil's and regular education student's placement; aid for special education.** Special education services provided to pupils and regular education students who have been placed for care and treatment are reimbursable in accordance with parts 3525.0800 and 3525.1310.

A. When regular education and special education services are provided, only the special education portion shall be reimbursed with special education aid.

B. The special education services provided to pupils in accordance with an IEP are reimbursable.

C. The indirect or consultative services provided in conjunction with regular education prereferral interventions and evaluation provided to regular education students suspected of being disabled and who have demonstrated learning or emotional or behavioral problems in a screening are reimbursable.

D. Regular education, including screening, provided to students, pupils, and regular education students are not reimbursable with special education categorical aids.

**Statutory Authority:** *MS s 120.17; 121.11; L 1994 c 647 art 3 s 23; L 1999 c 123 s 19,20*

**History:** *14 SR 281; 16 SR 1543; 19 SR 2432; L 1998 c 397 art 11 s 3; 26 SR 657*

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